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IN THE HONOURABLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P. NO. 2560 /03

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA & R/W ARTICLE 227 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

P. R. No. 21/3403
Presented by Shri Arun Sao
dated 31.06.03

PETITIONER : Dr. Sateesh Kumar Choubey
S/O. Shri B.L. Choubey ,
Aged 52 years, Ayurved Medical Officer/District Ayurved Officer,
Distt. South Bastar (Dantewada) C.G.

VERSUS

RESPONDENT : 1) The State of Chhattisgarh
Through the Under Secretary
Ministry of Health and Family Welfare, Department D.K.S. Bhavan , Raipur (C.G.).

2) Dr. G.S. Mahalwar,
S/O. " Net known "
Age about 52 years , Ayurved Medical Officer Govt. Ayurvedic Hospital , Bheji Distt. Dantewada (C.G.).

20/8/3

(55)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR (C.G.)

SINGLE BENCH: HON'BLE SHRI L.C. BHADOO, J

WRIT PETITION NO.2560 OF 2003

O R D E R

POST IT FOR: 27 /08/2003

Sd/-
L.C. Bhadoo
Judge

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR (C.G.)

SINGLE BENCH: HON'BLE SHRI L.C. BHADOO, J

WRIT PETITION NO.2560 OF 2003

Dr. Satish kumar Choubey
Son of Shri B.L. Choubey, aged 52 years,
Ayurved Medical Officer/District Ayurved Officer,
District South Bastar (Dantewada) C.G.

VERSUS

The State of Chhattisgarh
Through: Under Secretary,
Ministry of Health & Family Welfare Department,
D.K.S. Bhawan, Raipur (C.G.) and another.

Present: Shri R.N. Jha counsel for the petitioner.
Shri C.P. Jangade, G.A., for the State/respondent.

O R D E R
(Passed on 27th of August 2003)

By this writ petition under Articles 226/227 of the Constitution of India the petitioner has challenged the order dated 13/08/2003 (Annexure-P/1) by which the petitioner has again been posted as Ayurved Medical Officer at his original place of posting namely Government Ayurved Hospital, Naimed, district Dantewada.

(2) According to the petitioner, he was posted as Ayurved Medical Officer, Government Ayurved Dispensary, Naimed, district Dantewada till 26/08/2002 and vide order dated 26/08/2002 (Annexure-P/2) he was posted as Incharge Superintendent-cum-District Ayurved Officer, Datnewada. It is submitted that in a very clandestine manner respondent No.1 has passed the impugned order declaring the

posting of respondent No.2 in place of the petitioner as Incharge Superintendent-cum-District Ayurved Officer, Dantewada. The said order has not been served on the petitioner. Respondent No.2 by exerting pressure has become successful to manage a copy of the impugned order and has handed over to the petitioner putting the petitioner under shock. The services of the petitioner to the welfare of the people in the field of Ayurved Dispensaries under the control of respondent No.1 has all along been loyal and pious having no blots on his career. Whereas respondent No.2 never performed his duties with devotion and sincerity and he used to remain absent. As such, about his presence the Sarpanch of the Gram Panchayat has not issued required certificate. That is why he has not been paid his salary by the petitioner. There is no complaint against the petitioner and the petitioner has completed only one year tenure at his present place of posting. The transfer of the petitioner is mala fide, unwarranted and unreasonable. Therefore, the transfer order may be quashed and as an interim measure it may be stayed.

(3) I have heard learned counsel appearing for the petitioner.

(4) Learned counsel appearing for the petitioner submitted that within a period of one year the petitioner has been transferred back to Naimed fromwhere he was transferred to the present place of posting, without giving him any opportunity of being heard. The petitioner has always been sincere and devoted to his duties and respondent No.2 who has been posted at the place of posting of the petitioner has never been sincere to his duties. Respondent No.2 is presently posted as Ayurved Medical Officer, Govt. Ayurved Dispensary, Bheji at this place he never performed his duties with sincerity and on account of that he has not been paid six months salary. Moreover, there was a lot of complaint against respondent No.2 and those complaints were forwarded to the Controller, Indian Medical System and Homeopathy,

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Chhattisgarh, Raipur and the respondent No.2 was working under the petitioner and now he has been posted in place of the petitioner.

(5) Having heard learned counsel for the petitioner and having regard to the facts and circumstances of the case, I am of the opinion that ends of justice would be met if the petitioner is allowed to make a detailed representation to respondent No.1 raising all his grievances which have been put forward by the counsel for the petitioner before this Court that the petitioner has been transferred with a short span of time which is penal in nature and that the record of respondent No.2 is not good. Ten days' time is allowed to the petitioner to make a detailed representation to the State/respondent. On receiving the representation of the petitioner the State/respondent shall consider the same in an objective manner considering all grievances of the petitioner and pass an appropriate order on the representation of the petitioner within a period of thirty days from the date of receipt of the representation. The impugned transfer order shall remain kept in abeyance till the final order is passed by the State/respondent on the representation of the petitioner.

(6) With the above observation, the petition is disposed of.

Sd/-
L.C. Bhadoo
Judge